

REMARKS

The July 21, 2010 Office Action identifies the following issues:

- Claims 1-5, 7-10, 12 and 14-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stemmler (EP 694441 A1) in view of Gerber (U.S. Patent No. 5,002,216).
- Claims 1-10, 14, and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schmidt et al. (DE 4315029 A1) in view of Stemmler, further in view of Gerber.

Applicant respectfully submits that the following remarks address each of the rejections above and places the present application in condition for allowance.

Claims 1-5, 7-10, 12 and 14-16 Are Patentable Over Stemmler in view of Gerber

Independent claim 1 has been amended to recite “open ended” to further describe the eyelet in said securing member for engaging said vehicle roof mounting; support of which can be found in Fig. 1. As is clearly shown in Fig. 14 of Gerber, the element 432 identified as an eyelet is not an open-ended eyelet. It is closed on all sides. Moreover, the closed end eyelet disclosed in Gerber would not appear to function to engage the vehicle roof mounting as required in claim 1. Therefore, it would not be appropriate to combine Stemmler with Gerber. For at least this reason, Applicant respectfully submits that independent claim 1, and dependent claims 2-5, 7-10 and 14-16, are patentable over Stemmler in view of Gerber. Applicant further amended claim 1 to better clarify the claim. These additional amendments were not made to overcome any prior art or any rejections and should not be read as such.

Claims 1-10, 14, and 18 Are Patentable Over Schmidt et al. in view of Stemmler, further in view of Gerber

As argued above Gerber fails to disclose the open-ended eyelet as required in amended claim 1. For at least this reason, Applicant respectfully submits that independent claim 1, and dependent claims 2-10 and 14 and 18, are patentable over Schmidt et al. in view of Stemmler, further in view of Gerber.

Claims 19-23 Are Patentable

Applicant has have added independent claims 19 and 22 and dependent claims 20-21 and 23-24. The application now comprises 3 independent claims and 21 total claims. As such Applicant has included the excessive claims fee and otherwise Applicant believes no additional fees are due. Applicant respectfully submits that these newly added claims are patentable, including, without limitation over Schmidt and Stemmler. In particular, both Schmidt and Stemmler fail to disclose, teach or suggest a cover pivotably mounted on the base at a pivot, wherein the pivot is moveable along the base from a first position to a second position. As is clearly shown in Schmidt, the pivot of cover 19 is not capable of moving along the base 15. It remains stationary. On the other hand, as is clearly shown in Stemmler, the cover 17 is not pivotably mounted on the base 5. If, however, one assumes the cover is pivotably mounted on the base at the point the cover portion 17a meets the cover 5, the pivot is not moveable along the base from a first position to a second position. The pivot is not moveable along the base 5 at all. Applicant, therefore, submits that independent claim 19 is patentable over Schmidt and Stemmler. Since claims 20 and 21 depend directly from claim 19, Applicant likewise submits that claims 20 and 21 are patentable over Schmidt and Stemmler.

Further both Schmidt and Stemmler fail to disclose, teach or suggest a cover mounted on the base, wherein the cover is moveable relative to the base from a first position to a second position while remaining mounted to the base, and wherein in the first position articles are prevented from being secured to the bar and wherein in the second position articles are capable of being secured to the bar. In particular, the cover 19 in Schmidt is not movable from a first position to a second position while remaining mounted to the base 15. It is only capable of pivoting. Likewise, the cover 17 in Stemmler is not moveable along the base from a first position to a second position while remaining mounted to the base 5. If the cover 17 in Stemmler is moved along the base it would not remain mounted to the base 5. Therefore, Applicant submits that independent claim 22 is patentable over both Schmidt and Stemmler. Since claims 23 and 24 depend directly from claim 22, Applicant likewise submits that claims 22 and 24 are patentable over Schmidt and Stemmler.

Conclusion

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner has any questions pertaining to the above, then the undersigned attorney would welcome a phone call to provide any further clarification.

Respectfully submitted,

Date: November 22, 2010

/David B. Cupar/
David B. Cupar
Reg. No. 47,510
McDonald Hopkins LLC
600 Superior Avenue, E., Suite 2100
Cleveland, OH 44114-2653
(216) 430-2036